IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL.

(1) Writ Petition No. 1836 (S/S)05

1. Rekha Bisht W/o Sri Ramesh Ch. Singh Bisht,
   Resident of village Kharkiya, Post Suri,
   Block Tarikhet, District Almora.
2. Mahendra Singh Bisht S/o Sri Har Singh Bisht,
   Resident of village Matiladhura, Post Suri,
   Block Tarikhet, District Almora. -----Petitioners.

Vs.

1. State of Uttarakhand through Secretary,
   Education, Dehradun,
2. Principal, District Education and Training Institute,
   Almora,
3. Block Education Officer, Tarikhet, Distt. Almora,
4. Asha Arya D/o Laxman Ram,
   R/o village Natila, P.O. Suri, Distt. Almora,
5. Basant Kumar S/o Bishan Ram,
   R/o village Matila, P.O. Suri,
   District Almora. ----Respondents.

Sri Amish Tewari, learned counsel for the petitioners.
Sri H.M. Raturi, learned Standing Counsel for the State of Uttarakhand/respondent nos. 1 to 3,
Sri Manoj Tewari, learned counsel for respondent no. 5.

AND

(2) Writ Petition No. 129 (S/S)06

Basant Kumar S/o late Sri Bishan Ram,
R/o village Mateela, Post Office- Shitalakhet,
Block Tarikhet, District Almora. -----Petitioner.

Vs.

1. Addl. Distirct Education Officer (Basic) Almora,
2. Block Education Officer, Tarikhet Block,
   District Almora,
3. Sri Tara Singh Bisht, Pradhan,
   Gram Sabha Mateela, Block Tarikhet,
   District Almora. ----Respondents.

Sri Manoj Tewari, learned counsel for the Petitioner.
Sri H.M. Raturi, learned Standing Counsel for the State of Uttarakhand/respondent nos. 1 & 2,
Sri Rakesh Pandey, learned counsel for the respondent no. 3.

Hon'ble M.M. Ghildiyal, J.

Since the dispute relates to the appointment on the post of Shiksha Mitra in the same Gram Panchayat-Mateela, therefore; for the sake of convenience both the writ petitions have been consolidated and are being decided by a common judgment.

Heard Sri Amish Tewari, learned counsel for petitioners in writ petition no. 1836(ss) 2005 and Sri Manoj Tewari, learned counsel for the petitioner in writ petition no. 129 (ss)2006, Sri H.M. Raturi, learned Standing Counsel for the State of Uttarakhand and Sri Rakesh Pandey learned counsel for respondent no. 3 Sri Tara Singh Bisht.

The petitioners Rekha Bisht & Mahendra Singh Bisht have filed writ petition no. 1836(ss) 2005 with a prayer to quash the order dated 03.12.2005 passed by Block Education Officer, Tarikhet, district Almora which has been endorsed by Principal District Education and Training Institute (DIET), Almora on 05.12.2005.

By the aforesaid order the petitioners, namely, Rekha Bisht & Mahendra Singh Bisht in writ petition no. 1836(ss)2005 who were sent for training after being selected for the post of Shiksha Mitra, their appointment was cancelled and the petitioner Sri Basant Kumar in writ petition no. 129(ss)2006 and two others, namely Km. Asha and Km. Deepa were directed to undergo training for Shiksha Mitra.

The petitioners in writ petition no. 1836(ss)2005 have assailed the order impugned on the ground that while selecting Sri Basant Kumar, Km. Asha and Km. Deepa, the respondents have provided them quality point marks for their graduation degree which should not have been awarded in view of the Govt. Orders. Learned counsel for the petitioners Sri Amish Tewari has placed reliance on the Govt. Orders dated 16th January 2004, 19th April 2005 and 27th January 2001. In the Govt. Order dated 16th January 2004, the minimum qualification has been prescribed for selection on the post of Shiksha Mitra, is as below:-

"षिक्षामित्रों की न्यूनतम शैक्षिक अर्हता स्नातक रखी जाए"

In the Govt. Order dated 27th January 2001 in clause-4 the G.O. provide that:-

"ग्राम षिक्षा समिति, हाईस्कूल, इण्टरमीडिएट परीक्षा के प्राप्तांकों के औसत अंकों के आधार पर तथा बी0टी0सी0, बी0एड0/एल0टी0 को वरीयता देते हुए षिक्षामित्रों के चयन हेतु पात्रता सूची तैयार करेगी"

Contention of Sri Amish Tewari, Adv. is that since the quality point marks are to be allotted merely on the basis of High School and Intermediate examinations, in view of the Govt. Order dated 27th January 2001, but the action of the respondents by awarding quality point marks for B.A. Degree also to Sri Basant Kumar, Km. Asha, and Km. Deepa is contrary to the Provision of this Govt. Order and, as such, selection of the petitioners was wrongly cancelled. In this regard learned counsel Sri Manoj Tewari has drawn my attention towards para-2 of the aforesaid G.O. dated 27th January 2001 wherein the minimum educational qualification has been provided for appointment on the post of Shiksha Mitra is intermediate and submitted that this G.O. has been issued in the year 2001 and at that time, the marks were to be awarded on the basis of High

School and Intermediate examination only. From perusal of G.O. dated 16th January 2004, it is evident that the minimum qualification prescribed for appointment to the post of Shiksha Mitra is graduation. Thus, the argument of petitioners in writ petition no. 1836(ss)2005 that the marks of graduation should not have been awarded to a candidate who has applied for the post of Shiksha Mitra, cannot be accept.

Sri Manoj Tewari, learned counsel for petitioner-Sri Basant Kumar has also drawn my attention towards the G.O. dated 21th April 2001 which is in relation of selection for Special B.T.C. Clause-8 of this G.O. provides procedure for awarding marks to a candidate who is to be selected for the training of Special B.T.C. and for that purpose it is specifically stated that the marks for High School, Intermediate and Graduation will be awarded to the aspirants. He has further drawn my attention to the subsequent G.O. dated 26th August 2005, which provides that for awarding quality point marks for selection on the post of Shiksha Mitra, will be the same as has been provided for selection of training of Special B.T.C. Course.

Thus, from perusal of G.Os. dated 21th April 2001 & 26th August 2005 it illustrates that the minimum qualification for being appointed on the post of Shiksha Mitra is graduation and while making selection on the post of Shiksha Mitra the procedure for awarding marks is to be followed which has been given in G.O. dated 21th April 2001 and according to this G.O. the marks for graduation are to be awarded. Otherwise also, submission of learned counsel for the petitioners Rekha Bisht and another cannot be accepted that though the minimum qualification for the post of Shiksha Mitra is graduate, however no marks would be awarded for graduation Degree. In case,

after awarding marks to the applicants for High School and intermediate only, the petitioners Rekha Bisht and Mahendra Singh Bisht would have been placed above in merit list. However, after awarding marks for Graduation Degree to the aspirants, they have been replaced by Basant Kumar, Km. Asha and Km. Deepa, as they have got higher quality marks than Rekha Bisht and Mahendra Singh Bisht. I do not find any substance in the arguments advanced by Sri Amish Tewari, learned counsel for Rekha Bisht and Mahendra Singh Bisht.

Second ground on which Sri Amish Tewari, adv. has attacked the impugned order is that the petitioner in writ petitioner no. 129(ss) 2006, Km. Asha and Km. Deepa have not applied for the particular Institution for which they have now been selected. In reply to this argument, Sri Manoj Tewari, Adv. has submitted that the advertisement was issued in respect of the post of Shiksha Mitra in the Gram Panchayat-Mateela under which 4 Schools are functioning and the petitioner Basant Kumar, Km. Asha and Km. Deepa have applied for being appointed in 3 Schools and they have actually been selected in one of these Schools. Sri Manoj Tewari, Adv. has submitted that though the petitioner Basant Kumar has been selected, but he is not being permitted by the Pradhan to join the institution.

Thus, in the forgoing circumstances, the Addl. District Education Officer (Basic), Almora is directed to look into the whole matter and, in case, the petitioner Basant Kumar has applied for the School for which he has been selected, the Addl. District Education Officer (Basic) shall ensure joining of the petitioner-Basant Kumar as Shiksha Mitra in that school within a period of two weeks from the date of production of a certified copy of this order.

With these directions, the writ petitions are finally disposed of. No order as to costs. All the pending applications stand disposed of.

Let a certified copy of this judgment be placed in the connected writ petition.

(M.M. Ghildiyal, J.)

August 23,2007:
NCM: